

Private foundations; nonexempt charitable trust not 'substantial contributor.' An organization that is a nonexempt charitable trust described in section 4947(a)(1) of the Code that has made contributions to a private foundation in excess of the limitation in section 507(d)(2) is not a 'substantial contributor' within the meaning of that section for purposes of the tax on self-dealing under section 4941. The exception provided in section 1.507-6(a)(2) of the regulations for section 501(c)(3) organizations also applies to nonexempt charitable trusts described in section 4947(a)(1).

The question has been raised whether a nonexempt charitable trust, under the circumstances described below, is a substantial contributor with respect to a private foundation for purposes of section 4941 of the Internal Revenue Code of 1954.

On January 1, 1970, N, a charitable trust, made a contribution of \$6,000 to M, a private foundation. N is a nonexempt charitable trust within the meaning of section 4947(a)(1) of the Code. N's contribution to M was in excess of two percent of the total contributions and bequests received by M before the close of its taxable year in which it received N's contribution.

Section 507(d)(2) of the Code defines a 'substantial contributor' with respect to a private foundation as any person who contributed or bequeathed an aggregate amount of more than \$5,000 to the foundation, if such amount is more than two percent of the total contributions and bequests received by the foundation before the close of its taxable year in which it received the person's contribution or bequest.

Section 1.507-6(a)(2) of the Income Tax Regulations provides, in part, that:

* * * (T)aking section 4941 (relating to taxes on self-dealing) in context, it would unduly restrict the activities of private foundations if the term 'substantial contributor' were to include any section 501(c)(3) organizations. It was not intended, for example, that a large grant for charitable purposes from one private foundation to another would forever preclude the latter from making any grants to, or otherwise dealing with, the former. Accordingly, for purposes of section 4941 only, the term 'substantial contributor' shall not include any organization which is described in section 501(c)(3) (other than an organization described in section 509(a)(4)).

Section 4947(a)(1) of the Code states that for purposes of part II of subchapter F of chapter 1 (other than section 508(a), (b), and (c)) and for purposes of chapter 42, a nonexempt

charitable trust, as defined therein, shall be treated as an organization described in section 501(c)(3).

The statutory purpose implemented in section 1.507-6(a)(2) of the regulations is equally applicable to nonexempt charitable trusts described in section 4947(a)(1) of the Code. The exception for purposes of section 4941 with respect to section 501(c)(3) organizations is therefore applicable to N, inasmuch as N is a nonexempt charitable trust.

Accordingly, for purposes of section 4941 of the Code, N is not a substantial contributor with respect to M within the meaning of section 507(d)(2).